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**FEB 29 2008****SUMMARY OF THE OFFICE ACTION**

- 1) Claims 1-32 are pending.
- 2) Claims 1-2, 6-17, 20-22, 24, 28 and 31-32 are rejected under 35 USC 102(a) as unpatentable over Miyamoto (US 2003/0199316) in view of Johnson (US Patent No. 6,267,248) and Sines et al. 2001/0000778).
- 3) Claims 3-5 and 18-19 are rejected under 35 USC 102(a) as unpatentable over Miyamoto (US 2003/0199316) in view of Johnson (US Patent No. 6,267,248) and Sines et al. 2001/0000778) when further considered with Takishima (US Patent No. 4,614,242).
- 4) Claims 23 is rejected under 35 USC 102(a) as unpatentable over Miyamoto (US 2003/0199316) in view of Johnson (US Patent No. 6,267,248) and Sines et al. 2001/0000778) when further considered with Huen (US Patent No. 5,240,140).
- 5) Claims 25-27 and 30 are rejected under 35 USC 102(a) as unpatentable over Miyamoto (US 2003/0199316) in view of Johnson (US Patent No. 6,267,248) and Sines et al. 2001/0000778) when further considered with Purton (US Patent No. 6,726,205).

**RESPONSE TO THE OFFICE ACTION OBJECTIONS AND REJECTIONS**

- 1) Claims 1-2, 6-17, 20-22, 24, 28 and 31-32 are rejected under 35 USC 103(a) as unpatentable over Miyamoto (US 2003/0199316) in view of Johnson (US Patent No. 6,267,248) and Sines et al. 2001/0000778).

This rejection completely ignores the purposes and benefits of the presently claims subject matter, while at the same time ignoring the teachings of required technical content provided by some of the references provided to assert obviousness of the present claims.

The technology disclosed by Miyamoto was intended to remove physical game play elements from casino table card games. It was the purpose of both of these reference to eliminate at least physical cards from the game table. Applicants determined that there was resistance to this electronic system using virtual cards, and that in certain jurisdictions (e.g., California card rooms), systems using electronically generated cards are not allowed. This

provided a significant technical and legal barrier for the widest possible distribution of electronic table technology and reduced the acceptance of the tables with many players.

Given this background, it can be seen that the combination of references do not suggest a method of addressing these problems, and in fact tend to teach against the novel and unique combination of the technologies as done in the practice of the claimed invention. The present claimed invention, for the first time, teaches the actual shuffling of physical playing cards, the reading (e.g., at least rank or suit and rank) of those shuffled physical playing cards, and the use of the read information from the shuffled playing cards as the unique data file for play of a round or series of hands of cards dealt in the order determined by the data file at an otherwise electronic gaming table.

Miyamoto and Sines use random number generators to provide each card that is electronically displayed to the players and the dealer. Sines actually described the objective of his system (Abstract and specification) as:

**"Systems and methods for playing live casino-type card games, in particular blackjack. The systems include a presentation unit which has video displays which portray virtual playing cards and other information at gaming tables attended by live participants. Shuffling, cutting, dealing and return of playing cards are accomplished using data processing functions within an electronic game processor or processors which enable these functions to be performed quickly and without manual manipulation of playing cards. The invention allows casinos to speed play and reduce the risk of cheating while maintaining the attractive ambiance of a live table game." (Abstract, emphasis added)**

This strongly negative teaching of Sines basing the technology of his disclosure on the elimination of any physical playing cards cannot enhance the lack of teachings of Miyamoto with respect to an all electronic system. Miyamoto is primarily directed towards a methodology for reading emotional activity of players at an electronic game. The technical disclosure of the electronic game itself is meager, but as the game is played on individual screens and information transmitted by transmission to satellite locations, there is absolutely a contraindication of physical cards in the system. Wagers are electronically input, the dealer is an electronic image, and there are no physical gaming elements (cards or chips used). Neither Miyamoto nor Sines recognize and advantage in using a data file created by reading rank and/or suit of playing cards from a recent physical shuffling event of physical cards

Johnson has been cited for its showing of a physical playing card shuffler that reads individual playing cards (rank and suit) and then manipulates cards (sorts or shuffles the cards) based upon read information. However, the rejection asserts teachings, motives and intent in Johnson that are in fact absent. Specifically, Applicants find **inaccurate and unsupported** the statement on page 3 of the rejection that:

**“Johnson...establishes an electronic file or an order of a randomized set of cards and provides information from the electronic file that enables the main game processor to provide virtual cards based upon the order of cards identified in the electronic file (Col 4, Line 50 – Col 5, Line 6)(Col 6, Lines 4-7). Johnson does not specifically disclose that the virtual cards are dealt to players, however it would have been and obvious modification to one skilled in the art at the time the invention was made to deal the virtual cards to plays [sic, players] in order to create a more interactive and enjoyable game for the player to play.”**

The statements **highlighted** are in error at least because.

- a) Johnson never mentions any virtual cards. The concept of using read information as a virtual deck is absent from the reference. The specification of Johnson has been searched on this point and the word “virtual” is not found, nor is a visual display of a card (which would be a virtual card if disclosed).
- b) Johnson never mentions or discloses making a file of the order of the shuffled cards in a set. Johnson places cards into individual compartments within a randomizer or collator. When the Johnson device is used to order cards, Johnson places single cards in each compartment and then empties individual cards sequentially into the delivery tray to form ordered decks. **There is no disclosure of forming a data file**

**of an order of cards read from physically shuffled cards and the use of the data file in delivering virtual cards. Nor is there a reason from the references to form such a data file as recited in the claims as the system forming:**

**“...an electronic file of an order of a randomized set of cards and provides information from the electronic file that enables a main game processor to provide virtual cards to players based upon the order of cards identified in the electronic file....”**

With the randomizing function of Johnson, cards are randomly placed into compartments, whether read or not, **AND THERE IS NO ELECTRONIC FILE KEPT BY JOHNSON OF THEIR LOCATION.**

c) The primary function of the reading of cards in the device of Johnson is to place cards into a predetermined order (collating the cards into an ordered deck **in the delivery tray**) or verifying the presence or absence of cards from an original deck(s). Note the specific portions of Johnson cited by the Examiner, including Column 5, lines 1-6:

**“On the other hand, if a multiplicity of decks is to be shuffled for reuse in a game such as baccarat employing like decks of shuffled cards, it may be important to produce eight individually shuffled decks and/or to determine whether cards have been removed or added to the eight deck stack of cards retrieved from the playing table.”**

**There is absolutely no disclosure of forming an electronic file of a randomized set of cards.** As can be seen from this disclosure cited by the Examiner, there is no file created of the order of the shuffled cards and no disclosure of using such a non-existing file or any other card information with respect to a virtual display of playing cards.

d) Johnson has no disclosure of a game processor or the transmission of an electronic read card to any element outside of the shuffler. The microprocessor of Johnson is within the shuffler, operates and controls the shuffler, and has no communication function outside of the shuffler. Additionally, the various disclosed purposes of the Johnson microprocessor never include a stored file of the order of the stored deck. Consider the following disclosures by Johnson:

- i) As each card is passed beneath sensor 15 its presence is detected and microprocessor 16, using a random number generator, randomly allocates that card to a predetermined one of the fifty six storage spaces 24 of magazine 20. Microprocessor 16 then controls drive motors 36, 37 and 22 to effect delivery of the card into the randomly predetermined storage space 24.
- ii) The collating apparatus 10 for providing sorted and/or shuffled decks of playing cards from a stack of cards 11 includes holding means 12 for holding the cards in a vertical column 13 above card feed means 14 which feeds the lowermost card of the stack past the sensor 15 which is coupled to a microprocessor 16 to record either the presence of a card and/or the identity of a card by its suit and value. Microprocessor 16 is also coupled to drive motors 35, 36 of feed means 14, respective drive means (not shown) for transverse movement of each carriage 18, card transport drives 37 associated with carriages 18, magazine drives 22 and drive 33 associated with unloading conveyors 31 for selective coordinated operation to collate packs of shuffled or sorted cards.

It is therefore clear that Johnson does not provide even the underlying elements (file storage, indication of the order of cards in a randomized set of cards, external transmission of data, etc.) that are essential teachings from Johnson relied upon for the assertion of obviousness. On that basis alone, the rejection must fail as those elements are **not taught by Johnson or any other reference used in this rejection.**

The use of this non-existent information is exacerbated by the reason presented for asserting obviousness. The statement that: "...it would have been and obvious modification to one skilled in the art at the time the invention was made to deal the virtual cards to plays [*sic*, players] in order to create a more interactive and enjoyable game for the player to play." is not a substantive statement, but is purely self-serving and non-instructive. Applicants can find no teaching or suggestion in the references or in the common knowledge of the art that the use of virtual cards, even if a source of information on such cards was available, provides a more interactive and enjoyable game. Such an assertion is unsupportable, since even the most

popular card games viewed by the public on television channels are live games, with physical cards, physical chips in a real-time environment.

This rejection is in error. There is no teaching of a data file on the order of shuffled cards. There is no teaching of the transmission of an order of shuffled cards from a shuffler to a game controller. There is no teaching of the display of virtual cards from a file read from physically shuffled playing cards. Each and every one of these concepts (which are recited in the claims) is absent from this combination of references.

- 2) Claims 3-5 and 18-19 are rejected under 35 USC 102(a) as unpatentable over Miyamoto (US 2003/0199316) in view of Johnson (US Patent No. 6,267,248) and Sines et al. 2001/0000778) when further considered with Takishima (US Patent No. 4,614,242 [*sic*, 4,614,342]).

This rejection must fail for all of the reasons provided above. Takishima does not correct the deficiencies of the underlying rejection of the independent claims over Miyamoto in view of Sines. Even if Takishima teaches the elements for which it is cited, this reference actually reinforces the failure of the teachings of Miyamoto in view of Johnson and Sines, at least by the following type of teaching:

“An electronic gambling machine system 1 comprises a single dealer machine 2 and a plurality [*sic*] of player machines 4 which are radiately positioned. In FIG. 1, five player machines 4 are provided. A circuit of the dealer machine 2 comprises a dealer data processor 6 (CPU) for controlling the total game and dealing the cards, and a dealer memory 8 for storing game information. The dealer memory 8 comprises a program memory 8a (ROM) for preliminarily storing game standard steps, random number calculation data used to shuffle and deal the cards, and card character data, and a work memory 8b (RAM) for storing game information processed by the dealer data processor 6 and forwarded from the plurality of player machines 4.”

Takishima also provides a completely electronic system, with a random number generator determining playing cards to a display and the like. The purpose of this device is to eliminate the physical gaming elements of the card games, such as the physical cards themselves. The rejection of these claims must fail for at least these reasons.

- 3) Claim 23 is rejected under 35 USC 102(a) as unpatentable over Miyamoto (US 2003/0199316) in view of Johnson (US Patent No. 6,267,248) and Sines et al. 2001/0000778) when further considered with Huen (US Patent No. 5,240,140).

This rejection must fail for all of the reasons provided above. Huen does not correct the deficiencies of the underlying rejection of the independent claims over Miyamoto in view of Johnson and Sines. Even if Huen teaches the elements for which it is cited, this reference actually teaches structures completely incompatible with the Johnson shuffler and the development of a file of the order of shuffled cards. Huen reads cards one at a time when they are delivered out of the delivery device. It is impossible for this device to create an internal file of the cards in the device without actual physical delivery of the cards. The rejection of these claims must fail for at least these reasons.

- 4) Claims 25-27 and 30 are rejected under 35 USC 102(a) as unpatentable over Miyamoto (US 2003/0199316) in view of Johnson (US Patent No. 6,267,248) and Sines et al. 2001/0000778) when further considered with Purton (US Patent No. 6,726,205).

This rejection must fail for all of the reasons provided above. Purton does not correct the deficiencies of the underlying rejection of the independent claims over Miyamoto in view of Johnson and Sines.

Purton teaches a device that **does not shuffle cards**, but verifies the content of a set of cards. The cards are moved one at a time and either the entire order of the set is reversed or the order of the set is maintained. Purton cannot provide shuffled cards. Purton teaches sending out a report to a printer that indicates verification or defect in the set of cards that have been analyzed. It is important to note that Applicants have not found any specific teaching in Purton that the order or sequence of cards in the verified set is recorded, but rather only that the entirety of the content of the set is compared with an expected content value.

This rejection must also fail for the reasons given above.

**CONCLUSION**

Applicant respectfully requests that this amendment be entered into the record, all objections and rejections withdrawn and all claims allowed in the above-identified application. **The single amendment is editorial only (Claim 1) and merely corrects syntax and grammar in the claims and requires no further search or consideration of Issues.**

If a telephone conference would be helpful in resolving any issues concerning this communication, please contact Applicant's attorney of record, Mark A. Litman at 952.832.9090.

Respectfully submitted,

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By his Representatives,

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Date of FACSIMILE: 29 February 2008

The undersigned hereby certifies that this Transmittal Letter and the paper or fee, as described herein, are being sent by facsimile transmission to the United States Patent and Trademark Office addressed to Mail Stop: AMENDMENT, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313.

By: 

MARK A. LITMAN